

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 21, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of April 21, 2004, was called to order by Mayor Hansen at 5:33 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Prospective sale of real property located at 610 South Guild Avenue (±5 acres) owned by the City of Lodi, California (APN 049-250-77); the negotiating parties are the City of Lodi, California, and Arthur Anderson; Government Code §54956.8
- b) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- c) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- d) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- e) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- f) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM

C-3 ADJOURN TO CLOSED SESSION

At 5:33 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:04 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:05 p.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), a motion to reconsider approval of the sale of real property was made by Council Member Hitchcock and died for lack of a second.

Council Member Hitchcock explained that Item C-2 (a) was for the sale of five acres that the City owns in the industrial area. A prospective buyer had come forward, made an offer, and she had voted in favor of it initially. Subsequently she thought it should have been opened to bid and asked for the reconsideration.

In regard to Item C-2 (b), a motion was made by Council Member Land, approved by a 5-0 vote, to approve technical work for drilling of Cone Penetration Testing wells and a deep groundwater sample in the central plume area.

In regard to Items C-2 (c) through (f) no reportable action was taken.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of April 21, 2004, was called to order by Mayor Hansen at 7:05 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Jan Foster, representing the Bahá'í Faith.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Following introduction by Nancy Martinez, Library Services Director, Mayor Hansen presented a Certificate of Recognition to AmeriCorps Vista representative, Jessie Ryan.

D-1 (b) Fire Chief Pretz presented the Firefighter of the Year 2003 plaque to Captain Pete Iturran.

D-1 (c) Fire Chief Pretz presented plaques to the individuals listed below who were recognized as a Journeyperson, having successfully completed the apprenticeship program, which meets the training standards recommended by the State Board of Fire Services for:

FIRE MEDIC (Firefighter I, Firefighter II, Emergency Medical Technician I-NA/FS)

Grant Gibson

David Mettler

Oscar Picazo

FIRE ENGINEER (Driver/Operator 1A)

Aimee Dalrymple

John Heinrich

Brian Jungeblut

FIRE OFFICER (Fire Officer I, Fire Instructor I)

Bernell Wichman

James Miller

Evan Luke

William Broderick

D-2 (a) Mayor Hansen presented a proclamation to Donna Shaw, representing the Lodi Memorial Hospital Foundation, proclaiming Saturday, May 8, 2004, as "Walk for the Health of It" day in the City of Lodi.

D-2 (b) Mayor Hansen presented a proclamation to David Duncan, representing the California Society of Certified Public Accountants, proclaiming the month of April 2004 as "Financial Literacy Month" in the City of Lodi.

D-2 (c) Mayor Hansen presented a proclamation to Chief Adams proclaiming the week of April 18 – 24, 2004, as "National Volunteer's Week" in the City of Lodi.

D-3 (a) Rob Lechner, Manager of Customer Programs, reported that the Lodi Public Benefits Program currently expends in excess of \$500,000 per fiscal year on direct customer rebates. Two weeks ago Council approved the Lodi Residential Swimming Pool Pump and Motor Rebate Program, which provides rebates ranging from \$150 to \$325 for qualifying high-efficiency pool pumps and motors that are installed in in-ground pools in Lodi.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Hansen, Beckman second, unanimously approved the following items hereinafter set forth:

- E-1 Claims were approved in the amount of \$4,684,878.30.
- E-2 The minutes of March 30, 2004 (Shirtsleeve Session), April 6, 2004 (Shirtsleeve Session), April 6, 2004 (Special Meeting), April 12, 2004 (Special Meeting), April 13, 2004 (Shirtsleeve Session), April 13, 2004 (Special Meeting), and April 14, 2004 (Special Joint Meeting with Parks and Recreation Commission) were approved as written.
- E-3 Approved the plans and specifications and authorized advertisement for bids for one AC HiPot Tester.
- E-4 "Approve plans and specifications and authorize advertisement for bids for installation of streetlights on Phase IV of the Streetlight Completion Project and authorize the transfer of funds for the project (\$980,000)" was **removed from the Consent Calendar and moved to the Regular Calendar.**
- E-5 Adopted Resolution No. 2004-65 approving the plans and specifications and authorizing advertisement for bids for Henning Substation Heavy Load Access and Driveway, 1345 West Kettleman Lane, and authorizing the City Manager to award the contract and appropriate funds in the amount of \$22,000.
- E-6 Adopted Resolution No. 2004-66 approving the specifications and authorizing advertisement for bids for various street maintenance activities, fiscal year 2004-05, and authorizing the City Manager to accept or reject bids, award the contracts, and accept improvements.
- E-7 "Adopt resolution approving specifications and authorizing advertisement for bids for compressed natural gas street sweeper for the Street Division and authorizing the City Manager to accept or reject bids, award the contract, and appropriate funds (\$200,000)" was **removed from the Consent Calendar and moved to the Regular Calendar.**
- E-8 Approved the specifications and authorized advertisement for bids for 40,000 feet of #1/0 15kV underground conductor.
- E-9 Approved the specifications and authorized advertisement for bids for rental of safety clothing for the Electric Utility Department.
- E-10 Approved the request for proposal and authorized advertisement for bids for concession operations at Lodi Lake Park and other locations (determined quarterly) for recreational events.
- E-11 Authorized advertisement for transportation services for the Sandhill Crane Festival and authorized use of buses should no alternate provider be willing to perform the service.
- E-12 "Adopt resolution approving traffic safety improvements for Stockton Street from 300 feet south of Almond Drive to Kettleman Lane and appropriate funds (\$8,000)" was **removed from the Consent Calendar and moved to the Regular Calendar.**
- E-13 Adopted Resolution No. 2004-67 appropriating additional funds in the amount of \$250,000 for Change Orders for White Slough Water Pollution Control Facility Year 2003 Interim Improvements.

- E-14 Accepted the improvements under the “Armory Park Ball Diamond Renovation Project, 333 North Washington Street” contract.
- E-15 Accepted the improvements under the “Lane Line Painting, Various City Streets, 2002 and 2003” contract.
- E-16 Accepted the improvements under the “Alley South of Pine Street Wastewater Main Rehabilitation Project (Church Street to Hutchins Street)” contract.
- E-17 Adopted Resolution No. 2004-68 accepting the development improvements at 312 and 316 South Sacramento Street.
- E-18 “Adopt resolution approving City participation in the Ham Lane fence construction (Cardinal Street to 1,100 feet south of Cardinal Street) and appropriating funds (\$1,000)” was **removed from the Consent Calendar and moved to the Regular Calendar.**
- E-19 Adopted Resolution No. 2004-69 amending the contract for transit operations with MV Transportation, Inc., to reflect its new subsidiary, MV Public Transportation, Inc., and authorizing the City Manager to execute any documents related to the change.
- E-20 Authorized the City Manager to execute an agreement for property tax allocation for the Galantine Annexation at 5952 East Pine Street.
- E-21 “Adopt resolution authorizing the City Manager to execute electric utility rate contracts for three commercial/industrial customers—Kubota Tractor Corporation, Larry Methvin Installation, and Lodi Memorial Hospital” was **removed from the Consent Calendar and moved to the Regular Calendar.**
- E-22 Adopted Resolution No. 2004-70 authorizing the City Manager to extend the consulting services agreement with Borismetrics to provide professional services to the Electric Utility Department in the amount of \$60,000.
- E-23 Adopted Resolution No. 2004-71 authorizing the City Manager to execute Exhibit C, Revision 7, to United States of America Department of Energy Western Area Power Administration contract 96-SNR-00110 with the City of Lodi for the funding of power operation and maintenance for Central Valley Project Power Facilities.
- E-24 “Adopt resolution approving Memorandum of Understanding between City of Lodi and Lodi Professional Firefighters” was **pulled from the agenda pursuant to staff’s request.**
- E-25 Adopted Resolution No. 2004-72 approving Memorandum of Understanding between City of Lodi and Association of Lodi City Employees (General Services).
- E-26 Adopted Resolution No. 2004-73 authorizing Library administration to apply for two targeted grant opportunities available through the California State Library—a \$6,000 grant entitled, “Global Language Materials” and a “Service for Small Business” grant for approximately \$20,000.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Joanne Mounce announced that the first annual Milk Carton Regatta will be held at the July 4th Oooh Aaah Festival this year. All boat entries must float on milk cartons or jugs and have a minimum four person crew. Prizes will be awarded for speed, best decorated, most patriotic, etc.

- George Fink expressed his disappointment that the moratorium on large retail establishments was previously discussed by Council in an emotional manner. He believed that if the Interim City Attorney looked up case law on moratoriums, he would find that an argument can easily be made to make the necessary findings. He asked that Council reconsider the matter or call a special election on the issue of large retail establishment size limitations before November.

Mayor Hansen replied that he met with the Small City Preservation Committee about the subject and had subsequently asked Interim City Attorney Schwabauer to research the issue of vesting, which will be brought back to Council for further discussion.

- Bill Crow stated that the railroad tracks on Cherokee Lane between Lockeford Street and Victor Road have been abandoned for some time; however, buses are still required to stop before proceeding on. He suggested that the tracks be paved over and the crossing signs removed.

Mayor Hansen asked City Manager Flynn to look into Mr. Crow's concerns.

- Joyce Harmon warned that mistletoe is destroying Lodi trees at an alarming rate. She has been working since January 2003 to educate the public about mistletoe. Seven trees have died during the past year. In the five to seven years it takes a tree to die from mistletoe, Lodi will lose about 40 mature trees. Some of the worst infested trees are on City property. She urged Council to find the necessary funds to make Lodi's heritage trees a priority.
- Lee Taylor submitted a petition (filed) signed by 29 residents of south Church Street stating that mistletoe diseased trees are on City easements, and requesting that they be taken care of. Mr. Taylor suggested the use of grant funds.

City Manager Flynn replied that the mistletoe on the trees of the two blocks of south Church Street would be removed within a month.

- Ann Cerney asked for a moratorium on large retail establishments until the proposed initiative has been voted on. She noted that the concept of vesting is a complicated one and conflicts in the matter are usually determined by court action.
- Treacy Elliott, representing the Small City Preservation Committee, requested that a moratorium be placed on the processing of large-scale retail development, including all projects currently in the pipeline until after the General Election in November. The Committee's concern centers on the subject of vesting. Failure to put a moratorium in effect may allow the Wal-Mart Supercenter development to become vested if it has not already. The Committee feels that without a moratorium in place, with wording that will make the election results retroactive to a pre-vesting point, the efforts of the initiative's proponents will have been in vain. If the project becomes vested, the effect of the initiative on it will be null and void. A carefully worded moratorium enacted by the Council will ensure that the voters of the City get to decide what is right for Lodi.
- Joe Pacino read the following editorial published in the January 26, 2004, San Diego Union Tribune:

One way to look at President Bush's amnesty plan for illegal immigrants is through the lens of the Southern California groceries shut down. Employers such as Wal-Mart already under investigation for hiring illegal immigrants and other malpractices will use amnestied workers to drive wages and benefits down still further. The grocery business is living on the edge and not just in California traditionally. Grocery workers have been able to make a decent living. The wage of full-time unionized clerks averages \$15 an hour; \$25,000 to \$35,000 annually depending on the hours worked. In addition workers have had health care benefits. At these levels grocery clerks survived in this region in spite of its high real estate prices. Often they had long commutes especially if their stores were in affluent neighborhoods, but for decades these workers were as much a part of America's solid

middle class as service workers anywhere. They owned houses, raised families, took comfort in belonging to America's company-based health care systems. Along comes Wal-Mart. The world's largest business whose revenues equal an astounding 2% of the United State's Gross Domestic Product, and whose power rivals that of great trusts of a century ago. Specifically Wal-Mart resembles the great Atlantic and Pacific Tea Company, which in its heyday owned 80% of the supermarket business until Washington used the trust laws to whittle it down to size. Wal-Mart plans to open 300 Supercenters this year alone. That includes new stores and expansions of existing stores to add grocery departments directly in competition with Safeway, Vons, Ralph's, Albertsons, and many other stores currently who were involved in the strike lock out just recently. Forty Supercenters are planned for California in coming years. Wal-Mart has the distinction of having four of its own Walton owners ranked among the Americas 10 richest people according to Forbes magazine. The Walton's do especially well because their employees do especially poorly. With clerks earning on the average of 40% less than unionized workers and receiving either marginal health care coverage or none at all, the chain keeps its prices low and owners rich. Last year the five Walton heirs saw their net worth increase from \$94 billion to \$102 billion. Wal-Mart's remarkable growth raises this question. How will blanketing the nation in Supercenters affect our communities? In 1948 the A and P's abuses were flagrant enough that the government used the Robinson Patman-Act to enjoin the company from using price discrimination to drive smaller grocers out of business. But antitrust vigor has faded in our globalized world allowing mastodons to stroll the earth again. Happy with low prices, Wal-Mart customers don't connect those prices to the demise of the neighborhood stores. The influx of illegal immigrants or the use of foreign suppliers to replace U.S. companies. Antitrust law once saw its goal as the organization of industry in small units that can effectively compete against each other. Wal-Mart has replaced the A and P as the grocery leviathan. Changing the face of whole communities is this right. In the economic theory the answer is yes. In economic theory pure competition drives down prices in everyone's benefits, consumers with lower prices, owners with greater profits, workers with higher wages. In the real world competition is never pure, which is why antitrust legislation was written. The risk to society was that Standard Oil, Alcoa, or A and P, would lower prices to drive competitors out of business and then raise the prices.

Council Member Land suggested that the issue of vesting be brought back for consideration in an expeditious manner. He was sure that the initiative proponents would get the required number of signatures to qualify the petition and stated that if the voters approve it and Wal-Mart moves forward with the Supercenter, he would personally picket their store "for as long as it takes."

Mayor Hansen asked that the moratorium issue be placed on the next regularly scheduled City Council meeting agenda.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider an appeal received from Key Advertising, Inc., regarding the Planning Commission's decision to deny the request of Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign and a Variance to double the maximum allowable sign area from 480 square feet to 960 square feet to be located at 1251 South Beckman Road.

Community Development Director Bartlam stated that this is an appeal of the Planning Commission's decision on February 11. The appellant, Key Advertising, is proposing to construct a two-sided, 75-foot-tall (960 square feet in area) freeway identification sign on the existing Dodge/Kia car dealership property along Beckman Road at Highway 99. Each side of the sign has a 245 square foot area devoted to an electronic display. The Planning Commission denied both requests for a use permit and variance. The use permit for the

electronic display was denied on the grounds of size, location, and appearance. The Commission felt that an electronic display of this type was not consistent with the City's General Plan and, in particular, the aesthetic qualities of Lodi's major streets and entrances. Staff also pointed out other issues such as potential impacts to highway traffic, the City's inability to regulate content, and setting precedence for other electronic displays. The variance issue pertained to the size of the sign. The Lodi Zoning ordinance allows a maximum sign of 480 square feet and the request is double that area. Existing state law requires that when a variance is requested, the applicant or Commission must make the finding that there is something unique about the property presenting a hardship that other properties of similar size or location or zoning designation enjoy that this property would not. Mr. Bartlam stated that, in either case, the applicant did not propose any hardship. Staff was unable to find what is unique about this property that is not enjoyed by others. It has excellent visibility both from the freeway and adjacent roadways. Staff recommends that Council concur with the Planning Commission's decision and deny the appeal.

In response to questions posed by Mayor Pro Tempore Beckman, Mr. Bartlam stated that the applicant could place signs up to 75 feet high on each of the properties they own. The height of the sign is not at issue, it is the square footage of the sign on top of the pole. He acknowledged that at the Planning Commission meeting, Dale Gillespie, on behalf of Key Advertising, proposed a range of concessions.

Mayor Hansen read the following letter submitted by the Chamber of Commerce:

April 21, Dear City Council: The Lodi Chamber of Commerce Board of Directors has considered the matter before you tonight in regard to Item G-1. The Chamber Board is in support of this 75-foot electronic display sign and asks you provide Key Advertising and Geweke auto group a variance for this sign. While the Board recognizes the sign's two sides combined are in excess of the allowable square footage limitation we believe the sign should be given a variance. Being a two-sided display and only seeing one side per viewing, each side is within the size limitation specification, therefore keeping the spirit of the 480 limit. Also the auto group is offering the community generous mitigation in the way of community service bulletins, joining the Amber Alert System, and proposing that this sign do the duty of several different dealerships, thus actually reducing the potential number of pylon signs. The Chamber Board asks you to support this appeal and grant the variance for Key Advertising's request.

Council Member Howard pointed out that the Union 76 Gas Station sign at the corner of Beckman Road and Kettleman Lane is much taller than 75 feet.

Mr. Bartlam replied that a variance was approved by the Planning Commission in exchange for tabulating sign area.

Council Member Howard disclosed that she met with Dale Gillespie and a representative from Geweke prior to the meeting. She had requested they provided color photos showing what multiple signs on the properties would look like, versus one, which they have done.

In response to Council Member Hitchcock, Interim City Attorney Schwabauer stated that the City could enter into a development agreement with the developer that would run with the land.

Mr. Bartlam confirmed that a development agreement would be the appropriate vehicle to use (not a variance) if Council wished to allow consolidation of the signage, as has been suggested by Mr. Gillespie. The development agreement is a contract between the City Council and the applicant. The finding for hardship (necessary for a variance) is not relative to the electronic sign; it is relative to the size of the sign. The use permit relates to the electronic sign and whether it is consistent with the City's General Plan, Zoning Ordinance, and the betterment of the community.

Hearing Opened to the Public

- Dale Gillespie proposed that the variance and use permit be approved including a condition that a development agreement be drafted and brought back to Council at a future date that would restrict all of the Geweke properties' ability to place any more pylon signs, in exchange for having the one large electronic sign. He pointed out that the hardship (required for the variance) is self imposed in this case, as Geweke has the ability to put numerous pylon signs on its properties as it develops. Geweke believes it is aesthetically more appealing to have one sign advertising the entire dealership group, than to have many separate signs. Geweke does wish to retain the right to place monument signs to identify each dealership from passing cars. If Council approved this request, he would negotiate with the Toyota Motor Company to eliminate the pylon sign on that property and incorporate its advertising on the electronic sign. In addition, if Council approves the land exchange under Item G-2, advertising for that property would also be incorporated onto the electronic sign. He reported that in 2003 over 55% of Geweke's auto sales came from outside the Lodi, Woodbridge, Lockeford, Acampo area. Geweke is offering to donate 10% of the time the sign is on to the Chamber of Commerce, Lodi Downtown Business Partnership, Winegrape Commission, Lodi Conference and Visitors Bureau, and the City of Lodi for community service type messages.

Mayor Hansen disclosed that he also met with Dale Gillespie prior to the meeting.

Mr. Bartlam stated that the Lodi Zoning Code does not allow this sign, or any sign adjacent to Highway 99, to advertise anything except goods and services sold on the property; however, with a development agreement it could be done.

Council Member Hitchcock commented that she was opposed to electronic signs in general, due to traffic safety issues.

- Michael Parker stated that the Priority One company owns "Billboards on Six Wheels," which are mobile 300 square foot electronic signs. They are used throughout the Los Angeles area when Council's will not allow permanent electronic signs.

Public Portion of Hearing Closed

MOTION:

Mayor Pro Tempore Beckman made a motion, Hansen second, to continue the subject public hearing to June 2, 2004, and directed staff to negotiate a development agreement for Council consideration.

DISCUSSION:

Mayor Hansen asked Mr. Bartlam to find out whether Manteca has encountered any problems with a similar sign that it has in its city and report back to Council.

Council Member Land disclosed that he spoke with Dale Gillespie earlier in the week.

Mr. Bartlam directed Council's attention to exhibit 3 in the staff report (filed). Item 1e states that the sign shall not display companies' products or services that are not sold on the site for which the permit is issued, which is in conflict with the consolidation issue. Item 2 suggests that they will abstain from installing other electronic displays on other properties in the City, which is being offered as part of the development agreement. He pointed out that Geweke is not including the Recreational Vehicle (RV) dealership sign in the consolidation offer.

Mayor Hansen stated that the development agreement should ensure that no additional signs would be installed, that it would be binding on future and existing landowners, and that it be the sign proposed of 480 square feet on each side. In addition he asked Mr. Bartlam to negotiate with Mr. Gillespie to obtain a concession on the RV dealership sign.

Mayor Pro Tempore Beckman recommended that Item 1e be removed, as it is inconsistent, and attempt to negotiate a development agreement including the remainder of the applicant's proposal.

Council Member Hitchcock approved of the small monument signs and to allow the separate RV sign.

VOTE:

The above vote carried by a unanimous vote.

RECESS

At 9:08 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:20 p.m.

G. PUBLIC HEARINGS (Continued)

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider redesign concept for C-Basin (Pixley Park) and the exchange of properties with G-REM, Inc., to allow the relocation of C-Basin.

Public Works Director Prima reported that the City has owned a majority of the property now known as Pixley Park C-Basin (located east of Highway 99) since the early 1960s. Dale Gillespie of G-REM, Inc. Development, Construction, Management, representing the Geweke auto organization, would like to obtain the portion of the basin fronting Beckman Road at the corner of Vine Street. In exchange, the City would acquire the rear portion of the Toyota dealership property and additional property further south. The acreage of the "land swap" would be the same. The master plan prepared by Geweke has been brought before the Parks and Recreation Commission. Geweke has offered to do the excavation and grading for the City's property. The configuration of the site allows for four softball diamonds. Mr. Prima noted that the Tokay Model Airplane Radio Control Club has been using the Pixley Park area for many years and has asked the City to help them find another location. The White Slough property has been considered for their use, as well as County landfill sites.

In reply to Council Member Hitchcock, Mr. Prima stated that he did not have an appraisal done of the property. He noted, however, that there are major costs associated with making the property that the City is relinquishing, ready to develop. The basin will have to be filled, which will be a significant cost. In order to connect the new basin to the ditch along Beckman Road there needs to be an extension of a storm drain pipe that cuts across the north end of the property, which would substantially encumber it.

Community Development Director Bartlam added that another tangible benefit to the City is having a fully developable piece of property that can be part of the Geweke Auto Mall, which is a significant sales tax generator.

Hearing Opened to the Public

- Ken Knowles, representing the Tokay Model Airplane Radio Control Club, noted that it has been operating in Lodi for nearly 35 years and feels as though it is a part of the City's Parks and Recreation program. The Club has put sweat equity into Pixley Park by developing it and relocating on the site to accommodate increased development surrounding the area.

Mayor Hansen believed that the City owed it to the Club to find an alternate site and pledged his support in doing so. Council Member Hitchcock expressed agreement.

Mr. Prima stated that the area on the White Slough property that the Club thought would be an adequate site, was on the west side of Thornton Road at the far southeast corner of the City's property. He noted that there are some access issues that need to be resolved. If the City irrigates the property using secondary effluent there can be no public access. In the future there will be the ability to use tertiary water for irrigation, which does allow for public access.

City Manager Flynn reported that he met with representatives of the Club to ascertain its needs and discuss alternative sites. Staff has been working with representatives from the East Bay Municipal Utilities District and the County of San Joaquin regarding land they might have available for use by the Club.

Council Member Land commented that he serves on the County Parks and Recreation Commission. He stated that there is more than 100 acres of vacant land east of Highway 99 off of Liberty Road, which is planned to be a County park sometime in the future. He invited Mr. Knowles to attend a Commission meeting to inquire about this site for use by the Club.

- Dale Gillespie reported that preliminary estimates to complete all the improvements on the property were \$7 a foot. He noted that two years ago the land value of the property on which the Geweke Dodge Chrysler Jeep store is now located, appraised for \$5.50 a foot. In the proposed land exchange the City will get a fully rough graded park with the contours where the upland parking areas are, as well as rough graded fields and a larger, fully-graded basin. He estimated it would take three years to complete all of the improvements.

Public Portion of Hearing Closed

MOTION / VOTE:

Council Member Howard made a motion, Land second, to approve the redesign concept for C-Basin (Pixley Park) and the exchange of properties with GREM, Inc., to allow the relocation of C-Basin.

DISCUSSION:

Addressing the Tokay Model Airplane Radio Control Club members in the audience, Mayor Hansen promised that the City would do everything possible to find an alternate site for the Club. He directed Mr. Prima and Mr. Flynn to provide the Council with updates on the matter.

Mr. Prima noted that staff would return to Council with the final agreement between the City and G-REM for approval.

VOTE:

The above motion carried by a unanimous vote.

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator and Human Resources staff, the City Council, on motion of Mayor Pro Tempore Beckman, Hitchcock second, unanimously rejected the following claims:

- a) NewFields Companies, LLC, date of loss 12/03 through 3/04
- b) Environmental Forensic Investigations, Inc., date of loss 7/03 through 2/04

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Land, Beckman second, unanimously made the following appointments to the East Side Improvement Committee:

East Side Improvement Committee

Joseph Spinelli	Term to expire March 1, 2007
Sunil Yadav	Term to expire March 1, 2007
Martin Makapagal	Term to expire March 1, 2007
Ernest Golladay	Term to expire March 1, 2005

- b) The City Council, on motion of Council Member Land, Beckman second, unanimously directed the City Clerk to post for the following vacancies on the East Side Improvement Committee and expiring terms on the Library Board of Trustees, Lodi Arts Commission, and Planning Commission:

East Side Improvement Committee

Mark Gisler	Term to expire March 1, 2005
Ruth Jimenez	Term to expire March 1, 2006

Library Board of Trustees

Millard Fore	Term to expire June 30, 2004
Thomas R. Goad, Sr.	Term to expire June 30, 2004

Lodi Arts Commission

Laura Heinitz	Term to expire July 1, 2004
Hugh Metcalf	Term to expire July 1, 2004

Planning Commission

Eduardo Aguirre	Term to expire June 30, 2004
Dennis White	Term to expire June 30, 2004

H-4 Miscellaneous

- a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through March 31, 2004.

I. REGULAR CALENDAR

I-1 "Updates from Mayor Larry Hansen regarding the following issues: status of recruitment process for new City Attorney; progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation; and legal proceedings relative to the Environmental Abatement Program litigation"

Mayor Hansen reported that the filing date for the city attorney position closed on April 16. Ten individuals applied and five have been chosen for interviews before the Council. A meeting will be held with the Regional Water Quality Control Board tomorrow. It is anticipated that the Board will soon be issuing an order requiring the City to get more actively involved in the cleanup process.

MOTION/ VOTE:

There was no Council action necessary on this matter.

RECESS

At 10:11 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 10:17 p.m.

City Manager Flynn announced that his granddaughter was born tonight at 9:04 p.m. Her name is Audrey Shannon Flynn; she was 7 lbs, 13 oz, and 20 inches long.

I. REGULAR CALENDAR (Continued)

I-2 "Report regarding community-wide survey results"

Steve Childs of DataCycles distributed and reviewed statistical information from the citywide survey (filed). He stated that 300 pages of comments were submitted by over 2,000 Lodi citizens. The online advisory panel consists of 870 people who have agreed to be asked additional questions that Council or staff may pose in the future regarding issues that face the City. Several hundred people gave their addresses to volunteer for an offline advisory panel. There were two panels for the survey: 1) a random selection of registered voters and 2) the entire community notified via utility bills. Mr. Childs stated that Lodi is homogenous, i.e. there was no significant variance in the data based on age, zip code, presence of children, paper versus online responses, renters versus homeowners, or registered voters versus the utility bill panels. 74% of the respondents had no children in their household. One out of three respondents was over 65 years. 84% of the respondents owned their home, and 57% lived in Lodi for more than 20 years. Mr. Childs reported the following survey results:

Top Ten Services (listed in order of most important to least)

Police emergency response
Narcotics trafficking
Investigation of crimes against persons/identity theft
Fire suppression services
Greenbelt separator between Lodi and Stockton
Well-maintained neighborhoods, parks, and sports facilities
Street and sidewalk repair
Youth and teen sports program, activities/classes
Dial-A-Ride Service
Roadway projects to reduce congestion

Lowest Scoring Services

Lodi Avenue railroad underpass
Arts and cultural programs
Parks and Recreation activity guide
4th of July fireworks, Oooh Aaah Festival
News Years Eve Kids' Night Out
Community Center class schedule
Cable TV broadcast of Council meetings
Library open four hours on Sunday
Utility bill inserts
1250 AM highway advisory radio

Passion Index

Mr. Childs explained that after respondents ranked a section of services they were asked to select one service to make a comment about and give their opinions regarding whether or not funding for that service should be decreased, maintained, or increased. Below are the services chosen to comment on:

- 195 people chose utility bill inserts, with 90% in favor of decreasing the funding;
- 141 people chose paramedics on fire engines, with 70% in favor of decreasing the funding;
- 131 people chose the greenbelt separator, with 77% in favor of maintaining or increasing funding;
- 129 people chose the library Sunday hours, with 82% in favor of decreasing funding;
- 128 people chose the 4th of July Oooh Ahhh Festival, with 80% in favor of decreasing funding;
- 125 people chose Hutchins Street Square/Community Center, with 80% in favor of maintaining or increasing funding;
- 112 people chose Lodi Avenue railroad underpass, with 70% in favor of decreasing the funding;
- 104 people chose well-maintained neighborhood parks and sports facilities, with 80% in favor of maintaining or increasing funding;
- 98 people chose 1250 AM highway advisory radio, with nearly 100% in favor of decreasing funding;
- 91 people chose adult sports programs activities/classes, with 77% in favor of decreasing funding.

Support of Bond Measures to Fund Proposed Projects

(Note: Numbers shown are the average of 1 to 5)

Indoor Sports Complex – 1.9

Aquatics Center – 2.1

DeBenedetti Park – 2.0

Library Building Expansion – 2.4

New Animal Shelter – 3.1

Old Police Station remodel – 2.1

Police/Fire Training Facility – 2.7

Fire Station #2 Rebuild – 2.7

Support of Tax Increases

Transient Occupancy Tax – 65% ranked 4 and 5; 13% were neutral

Quarter Cent Sales Tax – 49% ranked 4 and 5; 14% were neutral

Miscellaneous Issues

Big-Box Retailers – 13% were neutral

Update Lodi Lake Master Plan received moderate support

Lodi Lake as Active Park – 55% ranked 4 and 5

Should City Fund Non-Profits – 46% answered probably or definitely

Online Utility Information – 39% said they would use it

Mayor Hansen and Council Member Hitchcock suggested that a more in-depth review of the survey results be provided at a future Shirtsleeve Session. Mr. Childs replied that his presence would not be necessary, as staff and Council have received the comprehensive reports.

PUBLIC COMMENTS:

- Michael Parker of Priority One Ambulance reiterated that 70% of the people stated they were in favor of decreasing funding for paramedics on fire engines, which he felt was indicative of their satisfaction with the current service provided by private agencies.
- Kyle Suess referenced Exhibit C, page 2, and noted that 72% of the respondents had no children in the household and 65% were over age 50. He believed this to be the reason the Indoor Sports Center project did not receive a higher ranking.

Mr. Childs reported that no one under age 18 was represented in the survey.

MOTION / VOTE:

There was no Council action taken on this matter.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Beckman, Hitchcock second, unanimously voted to continue the meeting following the 11:00 p.m. hour, but to consider Items I-3, I-5, and I-6 only. The remainder of the items will be continued to the Regular City Council meeting of May 5, 2004.

I. REGULAR CALENDAR (Continued)

- I-3 "Adopt resolution approving technical services task order agreement with Treadwell & Rollo, Inc., authorize the City Manager to execute task orders, and appropriate funds (\$100,000)"

Public Works Director Prima requested that Council authorize the City Manager to execute a technical services agreement with the firm of Treadwell & Rollo to undertake technical work on the Environmental (PCE/TCE) Abatement Program. There are two task orders in the agreement: 1) \$25,000 to review the technical data that has been produced to date; and 2) \$15,000 for contingencies due to the short notice that meetings are scheduled. It is requested that the total appropriation be \$100,000 so that as other task orders come up that need to be developed and done quickly there will be funds to accomplish it.

Mayor Hansen acknowledged that he was the only Council Member that participated in the panel who reviewed the firm. Other panel members included Interim City Attorney Schwabauer, City Engineer Wally Sandelin, Senior Engineer Charlie Swimley, and Dan O'Hanlon of the firm Kronick Moskovitz Tiedemann & Girard.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Beckman second, unanimously adopted Resolution No. 2004-74 approving technical services task order agreement with Treadwell & Rollo, Inc., authorizing the City Manager to execute task orders, and appropriating funds in the amount of \$100,000.

- I-4 "Adopt resolution approving the job specification and salary range for the position of Fire Administrative Captain and provide authorization to fill the position" was ***pulled from the agenda pursuant to staff's request.***
- I-5 "Adopt resolution approving the renewal of the renegotiated Fire Emergency Services Dispatch Agreement with the Stockton Fire Department"

Fire Chief Pretz reported that a new contract was negotiated in order for the Stockton Fire Department to recover the full cost of its services. The increase in price will be phased in over a three-year period. The increase in the first year would be \$41,000. The per call fee

increased from \$10 to \$25. He estimated the cost of going back to the Lodi Police Department for dispatching services would cost \$335,000 a year. To provide dispatching services for the Lodi Fire Department and surrounding fire districts the cost would be over \$600,000 a year.

Police Captain Manetti reported that the Lodi Police Department has 16 dispatchers, with a minimum staff of three at all times. Four shifts are scheduled, with 12 hour days, and a two day off sequence. He stated that a dedicated dispatcher would be needed if the Department were to go back to dispatching for Fire and Emergency Medical Services.

PUBLIC COMMENTS:

- Michael Parker, President/Chief Operations Officer and paramedic for Priority One Medical Transport, provided Council with statistical and financial information (filed) related to ambulance dispatch. He reviewed response time for calls out of Lodi that were responded to last week. He emphasized that one call took 8.50 minutes from the time the Lodi Police Department sent the call to the Stockton Dispatch Center, who screened and dispatched it, and for the Lodi Fire Department to respond to the call. He contended that too much time is tied up in the dispatch process. He stated that calls through the Priority One dispatching system in southern California are dispatched within 30 seconds. He stated that last year Chief Pretz reported that the Lodi Fire Department had 4,316 calls, which based on \$19.55 for 2004-05 amounts to \$84,377.80. Next year with the same call volume it will cost \$112,474. He stated that Lodi pays \$21,580 in radio frequency usage for Fire Orange, which is a frequency maintained by a users group that operates in the county. Lodi currently has a fire frequency that is licensed by the FCC that is capable of covering the City. A T-1 cost from the Stockton Fire Department to the Lodi Fire Department is not being used; however, Lodi is charged \$9,600 a year for it. It is estimated that Lodi's EMS responses will increase 6% over the next year, which will increase costs \$89,441 for the first year. He alleged that the Stockton Fire Department is charging Lodi and other agencies in the county \$342,000 a year to cover the cost of the 38 calls a day it responds to for the City of Stockton. He noted that the Lodi Police Department has a CAD system with all of the modules to commence dispatch of Police, Fire, and EMS and stated that for a minimal cost the City could also have a "rip and run" system, which would further decrease response times. An additional Fire and EMS channel could be converted in the radio communications system at minimal cost. He asserted that Stockton Fire Department dispatchers are not nationally accredited. In addition he stated that Stockton Fire Department is not state-of-the-art, it lacks intelligent 911 work stations, and the base rate is just an estimate of the fee that will be charged. He reported that Stockton is currently involved in a labor dispute with dispatchers who work 56-hour shifts. He believed that having a multiple agency dispatch center in Lodi would decrease the amount of time it currently takes to transfer and dispatch calls from the Stockton Fire Dispatch Center. He warned Council that if they agree to the contract, rates will continue to increase.
- Dave Hafey, EMS Division Chief of the Stockton Fire Department, invited Council to come to the Stockton Dispatch Center to evaluate the quality of service. He objected to the allegations made by Mr. Parker. The Center receives 107,000 dispatches a year and has never missed one. It uses a state-of-the-art system and all 22 providers (except Priority One) have agreed to the billing methodology.

MOTION:

Council Member Land made a motion, Beckman second, to adopt Resolution No. 2004-75 approving the renewal of the renegotiated Fire Emergency Services Dispatch Agreement with the Stockton Fire Department.

DISCUSSION:

Council Member Howard disclosed that she spoke with Mr. Parker yesterday. She asked questions of Fire Chief Pretz this morning and was comfortable with his responses and recommendation.

Mayor Pro Tempore Beckman and Council Member Hitchcock asked Chief Pretz to monitor the rates and level of service.

VOTE:

The above motion carried by a unanimous vote.

- I-6 "Adopt resolution approving the Joint Venture Agreement between the City of Lodi, City of Stockton, American Medical Response, and A-1 Ambulance"

Fire Chief Pretz recalled that in 2002 Council directed the Fire Department to develop a paramedic program and to pursue a joint venture agreement with a private provider. In January 2004 he briefed Council on the County's EMS plans. Staff was directed to continue discussions with American Medical Response and Stockton Fire Department. Presented for Council consideration tonight is the joint venture agreement between Stockton and Lodi. He noted that the City of Tracy has not joined at this time, though it agrees in principle. The parties to the agreement will jointly submit a response to the San Joaquin County Request for Proposal (RFP) for the award of exclusive rights to emergency and non-emergency ambulance transportation. He stated that the process may take 12 to 18 months.

Council Member Howard disclosed that she spoke with Michael Parker of Priority One about this matter as well and received responses from Chief Pretz.

PUBLIC COMMENTS:

- Michael Parker of Priority One believed it was premature for the City to engage in a Joint Venture Agreement for an RFP that has not been written and is not expected to be prepared for 15 months. He also warned that the agreement will commit the City to five years with the Stockton Dispatch Center.

Chief Pretz replied that the agreement with Stockton Dispatch has a one-year cancellation policy, which overrides the joint venture agreement.

Council Member Hitchcock asked Chief Pretz to ensure the City is not locked into something unintentionally.

Mayor Hansen questioned Mr. Parker's credibility and objected to him expressing his opinions as fact. He pointed out that of all the agencies involved in this matter, Priority One is the only one who has come forward with opposition.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously adopted Resolution No. 2004-76 approving the Joint Venture Agreement between the City of Lodi, City of Stockton, American Medical Response, and A-1 Ambulance.

- E-4 "Approve plans and specifications and authorize advertisement for bids for installation of streetlights on Phase IV of the Streetlight Completion Project and authorize the transfer of funds for the project (\$980,000)" was ***continued to the regular meeting of May 5, due to the above vote.***

- E-7 "Adopt resolution approving specifications and authorizing advertisement for bids for compressed natural gas street sweeper for the Street Division and authorizing the City Manager to accept or reject bids, award the contract, and appropriate funds (\$200,000)" was **continued to the regular meeting of May 5, due to the above vote.**
- E-12 "Adopt resolution approving traffic safety improvements for Stockton Street from 300 feet south of Almond Drive to Kettleman Lane and appropriate funds (\$8,000)" was **continued to the regular meeting of May 5, due to the above vote.**
- E-18 "Adopt resolution approving City participation in the Ham Lane fence construction (Cardinal Street to 1,100 feet south of Cardinal Street) and appropriating funds (\$1,000)" was **continued to the regular meeting of May 5, due to the above vote.**
- E-21 "Adopt resolution authorizing the City Manager to execute electric utility rate contracts for three commercial/industrial customers—Kubota Tractor Corporation, Larry Methvin Installation, and Lodi Memorial Hospital" was **continued to the regular meeting of May 5, due to the above vote.**

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard noted that today was Administrative Professionals Day and she extended her thanks to all those in the City that work in that capacity.
- Council Member Hitchcock commended City Clerk Blackston for the assistance she provides to Council. She expressed surprise in having read a quote from City Manager Flynn in the Lodi News-Sentinel today that the City will be placing a quarter cent sales tax increase on the ballot. She asked Mr. Flynn to inform Council first of such issues and his plans.

Mr. Flynn replied that at yesterday's Shirtsleeve Session, at which Ms. Hitchcock was absent, discussion took place about other cities bringing forward tax measures this year and he commented that staff might bring to Council a similar recommendation.

- Council Member Land thanked Heartland Community Church for donating all of its Easter services donations (\$12,600) to Lodi House, a homeless shelter for women and children.
- Mayor Hansen requested that the issue of placing a moratorium on large retail establishments be placed on the next City Council agenda. He also commended Ms. Blackston for her assistance throughout the year. He announced that a ground breaking ceremony was recently held for the Salvation Army's new homeless shelter.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 1:03 a.m., Thursday, April 22, 2004.

ATTEST:

Susan J. Blackston
City Clerk